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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written submission by the Human Rights Defender of Armenia*

Note by the Secretariat

The Secretariat of the Human Rights Council hereby transmits the communication submitted by the Human Rights Defender of Armenia**, reproduced below in accordance with rule 7(b) of the rules of procedures described in the annex to Council resolution 5/1, according to which participation of national human rights institutions is to be based on arrangements and practices agreed upon by the Commission on Human Rights, including resolution 2005/74 of 20 April 2005.

* National human rights institution with A status accreditation from the Global Alliance of National Human Rights Institutions.

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Annex

Submission by the Human Rights Defender of Armenia

The present statement is submitted to the Human Rights Council with regard to the Report of the Special Rapporteur on his mission to Armenia, concerning the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

During his mission to Armenia in 2017, the Special Rapporteur had opportunity to meet with the Human Rights Defender of Armenia Dr. Arman Tatoyan and other representatives of the Office of the Human Rights Defender.

Recognizing the importance of making the report on the mission to Armenia publically available, the Human Rights Defender is grateful to the Special Rapporteur for collaboration, and presents his observations hereunder.

The right to health, including the right to receive medical care, is a fundamental right of every person in a democratic society. A country's national health system is one of the key components protecting the welfare of its population. It should always keep progressing to be able to address emerging challenges and to continuously ensure everyone's right to health.

The national health system of the Republic of Armenia faces various issues, among which accessibility, affordability and the quality of health care services should be particularly emphasized. These are widespread and systemic problems at all levels of health care in the State territory, including in penitentiary institutions and other places of deprivation of liberty where the health situation is especially complicated.

An Ad Hoc Public Report of the Human Rights Defender of RA on Safeguarding the Right to Health of Persons Deprived of Liberty in Penitentiary Institutions was prepared and published in 2017 that reflects challenges and contains analyses of health-related issues in penitentiary institutions. Subsequently, the similar issues have been reconsidered in the Annual Report on the 2017 activities of the Human Rights Defender as National Preventive Mechanism. Specifically, prevalent issues have been recorded relating to the following:

- adequate staffing of the health personnel; their sufficient qualification and training; institutional independence; sufficient medical equipment, availability of medicines;
- provision of state-guaranteed free health care, transfer of persons deprived of liberty to medical facilities;
- release from the sentence on the grounds of a serious illness of a person deprived of liberty;
- provision of care in penitentiary institutions;
- organization of psychological assistance and care for persons deprived of their liberty, etc.

It is worth mentioning that in 2018 the Human Rights Defender has published a targeted ad hoc report on gross violations in psychiatric institutions that have been recorded during the unannounced monitoring visits conducted throughout the last year. The monitoring revealed major problems, including the following:

- cases of providing paid psychiatric services where psychiatric care is legally free;
- inaccessibility of mental health care services at the community level;
- legislative and practical issues related to compulsory treatment (e.g. the absence of time periods for compulsory treatment and the absence of periodic review mechanism);

- use of medical restraints not envisaged by the law and violations of procedures for their use;
- inadequate number of medical staff in psychiatric institutions, lack of narrowly focused specialists, specialists for child mental health services and psychiatrists on duty at night time;
- use of expired medication and medical supplies, improper maintenance and disposal of medication;
- shortage of alternative medical treatment methods;
- overcrowding and substandard conditions in psychiatric institutions.

In addition to targeted monitoring activities, human right violations and other health-care related issues have been recorded within the framework of consideration and review of individual complaints addressed to the Human Rights Defender.

One complaint, for instance, revealed a number of violations of the rights of a person kept in a psychiatric institution. In particular, the person was not subjected to psychiatric commission examination after refusing hospitalization, the right of the person to outdoor exercise was not ensured by the psychiatric institution, and his/her medical history was not properly maintained. In response, the Defender made a decision on the violation of human rights and freedoms, which was presented to the RA Minister of Healthcare. The decision recommended the following:

1. to immediately carry out an investigation with regard to the violation of the rights of the person for the purpose of discussing the liability of the respective authorities;

2. to eliminate such violations of human rights of persons with mental health issues;

3. to prevent the hospitalization of a person with mental health issues without his/her consent or that of a legal representative;

4. to carry out a mandatory examination by a psychiatric commission;

5. to carry out proper supervision to ensure over the awareness of persons with mental health issues with regard to their rights, as well as over proper maintenance of medical documents;

6. to define procedures for the realization of the rights of persons with mental health issues at the legislative level;

7. to initiate a draft of amendments to the law, as well as declare void some decrees of the RA Minister of Healthcare which are in contradiction with the Constitution of Armenia and relevant international standards.

The RA Ministry of Healthcare has examined the Ombudsman's ad hoc public report and has instructed psychiatric institutions to promptly eliminate all existing violations and shortcomings of organizational and disciplinary nature. It has also been instructed to calculate the amount required for necessary reforms in alliance with the Health Care Programs Implementation Office of the RA Ministry of Healthcare. In the meantime, by highlighting the importance of the developments in the sphere of psychiatry, the Department of Medical Assistance Policy of the RA Ministry of Healthcare has been assigned to develop a concept of psychiatric service development with chief and leading specialists.

During the working meeting between the representatives of the RA Human Rights Defender's Office and the RA Ministry of Healthcare the issues raised in the ad hoc public report were discussed. The importance of organizing trainings for junior medical personnel was also touched upon. In this regard, the Human Rights Defender's Office responded positively and offered its support.

The records developed as a result of the monitoring visits to the RA psychiatric institutions in 2017 initiated by RA Human Rights Defender's Office were sent to the RA Prosecutor General's Office. The information is related to use of expired medication, filling in the record-books on "Drug dispensing and control" with gross violations of the prescribed procedure, and taking pensions from persons with mental health problems. As a result of examination of the records and attached documents, it was revealed that some of the information therein contained data on possible risks of criminal activity. The RA Prosecutor General consequently sent the reported violations to the RA Chief of Police with instructions to conduct an investigation.

It is worth mentioning that the actions towards the implementation of the recommendations presented in the above-mentioned report are going to be under the continuous supervision by the Human Rights Defender and his Staff through periodic visits and other follow-up activities.

The Office of the Human Rights Defender reiterates his sincere thanks and encouragement to the Special Rapporteur for preparing and publicizing his report, which simultaneously outlines crucial issues in the status quo, provides a hopeful account of current developments in Armenia's health care system, and makes a number of substantive recommendations to direct ongoing reforms. The report's contents disclose a carefully conducted investigative visit, as well as a robust strategic framework for bringing Armenia's health care system in line with international standards while bearing in mind the country's particular situation and needs.

In the closing, we would like to express our readiness to continue working to enhance our already-established close partnership with the Special Rapporteur to the benefit of our respective institutions and to our shared endeavor and in the effort to ensure the protection and promotion of the right to health in Armenia. The latest report underlines the degree to which sharing resources, expertise, and information between local and international actors may spur productive advances in the health care sector. Correspondingly, we believe, the realization of our commitment to protect and promote human rights relies strongly on the continuation of our institutions' already-established special relationship.